

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
DECEMBER 8, 2010**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, Charles Lapp, Frank DeKort, Jim Heim, Jeff Larsen and Bob Keenan. Marc Pitman and Mike Mower had excused absences. Allison Mouch and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 15 people in the audience.

**APPROVAL OF
MINUTES**

DeKort made a motion, seconded by Hickey Au-Claire to approve the November 10, 2010 meeting minutes.

The motion passed by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

Kathy Price, 1506 Eddy Court, president of Columbia Falls Softball Association, passed out hand outs to the board and shared information on a project, the Columbia Falls softball complex, which they hoped to finish soon. She gave a short history of the project, what they hoped to accomplish and how the community would benefit from the recreation complex. She was aware the project was outside of the board's jurisdiction, but would appreciate any suggestions the board had which would move the project along.

**NW DEV GROUP
LLC
(FZC 10-07)**

A Zone Change request in the Evergreen Zoning District by NW Dev Group, LLC for two tracts of land located east of US Highway 2 and south of Rose Crossing. The request is for a zoning map amendment to go from SAG-10 (Suburban Agricultural) to I-1H (Light Industrial Highway). The combined acreage of both tracts is 61.8 acres; however, the requested zone change would only apply to 30.65 acres of the land involved.

STAFF REPORT

Allison Mouch reviewed Staff Report FZC 10-07 for the Board.

**BOARD
QUESTIONS**

Lapp asked if there were any implied restrictions from accessing Highway 2 with this zone change.

Mouch said no.

Mouch and Lapp briefly discussed the issue of access to the

highway from the property.

**APPLICANT
PRESENTATION**

Erica Wirtila represented the applicants. She gave a brief history of the application and the boundary line adjustment which hinged on the approval of this application. She also spoke about the fire station comments on the uses of the property and the possibility of a contribution to the fire station. She talked about the potential of Cenex, (CHS), moving to the property. The applicant was in talks with MDOT (Montana Department of Transportation) about potential access to Highway 2 West. The consensus was accessing Highway 2 was not a possibility. She went on to explain why. She also brought up another concern which was high ground water problems. She said three different companies had looked at the water concerns. She explained their findings, which was the water level was not less than 8 feet. She talked about the city of Kalispell and the possibility of annexing the property and what that would entail.

**BOARD
QUESTIONS**

Cross and Wirtila discussed the boundary line adjustment, if that would allow access to Rose Crossing and if any development plan was attached to the property.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

None.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC 10-07)**

DeKort made a motion seconded by Larsen to adopt staff report FZC 10-07 as findings-of-fact.

**BOARD
DISCUSSION**

Heim thought it was a natural request given the businesses in the area.

Cross agreed. The only comment he would have was according to the Two Rivers Plan, the application needed to be accompanied by a development plan. He discussed the conflict

between zoning laws and the Two Rivers Plan concerning an attached development plan, how that affected the fire department, and the great location for the zone change.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 10-07)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC 10-07)**

DeKort made a motion seconded by Larsen to adopt Staff Report FZC 10-07 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FZC 10-07)**

On a roll call vote the motion passed unanimously.

**NORTH FORK
ZONING TEXT
AMND
(FZTA 10-04)**

A request by the North Fork Land Use Advisory Committee (NFLUAC) for a Zoning Text Amendment to the text of the North Fork Zoning District section of the Flathead County Zoning Regulations. The NFLUAC is proposing to amend Section 3.40.040(2) to read: "Setbacks of new buildings and temporary structures from public roadways and waterways". In addition a new definition in Section 3.40.050(6) for Temporary Structures would read: "An enclosure with a roof or other protective cover that does not have or require a permanent attachment to the ground and that is used or can be used for housing, shelter or storage of any person, animal or chattel. An operable, licensed motor vehicle shall not be considered a temporary structure." The proposed text amendment would only be applicable to the North Fork Zoning District.

STAFF REPORT

Allison Mouch reviewed FZTA 10-04 for the board.

**BOARD
QUESTIONS**

Larsen, Mouch, and Grieve discussed if a fee was charged to the application, a comment letter which brought up the issue of what exactly was allowed in the 150' setbacks and if a birdhouse or dog house would qualify as a structure in the setback. They also discussed the application and how it was unique or specific to the area.

**APPLICANT
PRESENTATION**

Randy Kenyon, 403 7th Ave W, member of North Fork Land Use Advisory Committee (NFLUAC) gave a history of the application, and the fact the individual who wrote the comment letter against the application was at a majority of the meetings and didn't comment against the application. He said he didn't see any huge issue; they were just trying to revert the plan back to the original intent. He spoke about provisions in place if the lot was not big enough to handle the 150' setback.

**BOARD
QUESTIONS**

Heim and Kenyon discussed what precipitated the text amendment.

Cross, Kenyon and Larsen briefly discussed wording and intent of the NFLUAC for animal shelters in the setback.

Grieve talked about an allowance in the structure definition. He read the definition which clarified the height of the structure would need to be less than three feet.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Jerry O'Neil, 985 Walsh Road, Columbia Falls, was an elected representative of the North Fork Area. He was against the application.

**APPLICANT
REBUTTAL**

Kenyon wanted to respond to the comment concerning RV vehicles brought up by O'Neil. NFLUAC spent a long time discussing RV parking on property and felt it was too big of a project to take on at this time. There were too many vehicles, too many variables to try to define it.

**STAFF
REBUTTAL**

Mouch said RVs and vehicles were considered a separate issue as far as the office was concerned.

**BOARD
DISCUSSION**

Cross called a 5 minute recess.

The board reconvened at 7:10.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZTA 10-04)**

Heim made a motion seconded by DeKort to adopt staff report FZTA 10-04 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FZTA 10-04)**

On a roll call vote, the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL
(FZTA 10-04)**

Heim made a motion seconded by DeKort to adopt Staff Report FZTA 10-04 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Lapp agreed with the definition in the past concerning temporary structures, it was used all over the county, and he felt having one area be different went against the goal of consistency throughout the county.

Larsen thought there were a lot of questions about what was allowed and wasn't allowed in the setback. If he was going to support something like this application, he needed it a lot clearer. He had an issue having different treatments for different areas in the county.

Hickey Au-Claire's concern was this issue was not brought up when the plan was reviewed.

Cross clarified the confusion as to why the issue was not brought up. The NFLUAC believed the issue in the application was covered, but it was not. He asked staff if there was a clear intent to abuse the temporary structure with skids on structures, if that would be a zoning violation.

Mouch said under the current zoning regulations, it would not. If the application passed, it would.

Heim still supported the motion.

**ROLL CALL
TO
RECOMMEND
APPROVAL OF
(FZTA 10-04)**

On a roll call vote the motion passed 4 – 3 with Larsen, Keenan and Lapp dissenting.

CAMP

A request by Camp Winnakee, LLC for a Major Land Use Review

WINNAKEE LLC (FCMU 10-01)	for an expansion of an existing commercial use greater than 25% of existing commercial structures and/or activity areas when the total use area involves more than 1 acre. The proposal is to operate a lodge at 120 Highline Boulevard, within the C.A.L.U.R.S (Canyon Area) Zoning District.
STAFF REPORT	Allison Mouch reviewed FCMU 10-01 for the board.
BOARD QUESTIONS	<p>Larsen said there was a big difference between the site plan and the DEQ approval. He spoke about the differences on the impact on the site between the two and was concerned about that fact and the storm drain plan.</p> <p>Mouch and Larsen discussed the history of the approvals and which reviews had been approved.</p> <p>The board and Mouch discussed the timing of the approvals and actual construction, the previous minor land use approval, the conditions which accompanied it and the history of what brought the application before the board.</p>
APPLICANT PRESENTATION	Denny Gignoux, one of the applicants, gave a history of the company and the use of the property in the application. He reviewed the history of the application before the board.
BOARD QUESTIONS	None.
AGENCY COMMENTS	None.
PUBLIC COMMENT	<p><u>Chuck Brasen</u>, 535 Sloan Lane, spoke about his concern regarding the number of potential occupants, and groundwater concerns. If these concerns were not met, he was against the application.</p> <p><u>Joe Hoff</u>, 12555 Hwy 2 E, adjoining property owner, had concerns which involved an after the fact application, septic approval, the potential effects to his well, his compromised land value, and enforcement of the land use policies. He explained why he had concerns. He was against the application.</p> <p>Cross asked for clarification of the well head protection easement letter Hoff had received from the applicant.</p>

Charlie Logan, 225 Lake Five Road, was for the application.

Drew Paslawsky, 48 Crane Marsh Way, read a letter to the board concerning water rights. He mentioned the covenants for the subdivision and he felt errors were made in the DEQ permit. He was not in favor of the application.

John Gillespie, 1090 Belton Stage, was member of the Middle Canyon LUAC, said there was confusion between departments and recommended common definitions between the departments. He talked about water concerns, the conditions which needed to be met and no way to know that the conditions had been met. He asked there be a system of when permits and licenses were met they go to the Planning Office so there would be a central file to make sure everything was met and on record. He also spoke about the fire department permit which needed to be issued. He said the whole process had been a mess and the committee felt their hands were tied on the issue. They did what they felt was right, but they did it with a sour taste. They were fine with the occupancy. He went on to explain why the committee felt their hands were tied. They wanted to see things done properly. Four of the key players concerning the application from offices involved were no longer available to contact, so they felt they could not get the clarity they wanted on events which had happened.

Monica Jungster, 535 Sloan Lane, reviewed the history of the application as she understood it. She read a letter from Glen Gray to Andrew Hagemeyer concerning the application. She was against the application.

Sharon Demeester, 415 Chestnut Drive and 130 Glacier Ridge Drive, passed out to the board a handout which contained copies of documents her research between the Planning Office and Environmental Health Office had afforded her. She read through the documents with personal comments. She had two concerns, one was the water, and the other was the applicant's total disregard for the CALURS document. She was against the application.

Jerry O'Neil, 985 Walsh Road, offered some suggestions to help resolve the issues with the application.

Sally Thompson, 232 Highline Blvd, felt all the permits should have been in place before construction started on the building.

She was against the application.

**APPLICANT
REBUTTAL**

Chris Coughlin, one of the applicants, said they did use CALURS when working with the application. They tried to follow procedure and had most of the permits which were of a concern. She gave a history of the application and what had been done.

Cross and Gignoux discussed if the septic system was a level two system and the style of it.

**STAFF
REBUTTAL**

Mouch discussed the septic system, occupancy, what was entailed if the applicant decided to expand in the future, and the fact the application was an example of enforcement at work. All of the conditions had not been met on the minor land use review so that was why the application for a major land use review was before the board at this meeting.

**BOARD
DISCUSSION**

Cross, Lapp and Mouch briefly discussed what would happen if the applicant was to come back for expansion of occupancy in the future, and the differences in number of occupants in the different permits.

Cross called a 5 minute recess.

The board reconvened at 8:55.

Larsen recused himself from the discussion and voting due to the fact he realized he had been consulted by the environmental consultant on the project.

**MAIN MOTION
TO ADOPT
F.O.F.
(FCMU 10-01)**

Hickey Au-Claire made a motion seconded by Keenan to adopt staff report FCMU 10-01 as findings-of-fact.

**BOARD
DISCUSSION**

Heim asked for clarification on which findings were suggested to be changed by staff.

Mouch read the findings which were suggested to be changed to the board.

**SECONDARY
MOTION TO
(Amend F.O.F. #1)**

Lapp made a motion seconded by Hickey Au-Claire to amend finding of fact #1 to read:

The proposed major land use application is in compliance with

the Outdoor Advertising requirements detailed in the Performance Standards because the size and shape of the sign on US Highway 2 will not be altered and ~~because the sign at the entrance to the facility meets the standards for on premise signage~~ the existence of the sign predates the CALURS zoning; and because the applicant will be required to move the sign located at the entrance off Highline Blvd. onto the subject property or replace the sign at its present location with a directional sign not to exceed 8 sq. ft. in size.

**ROLL CALL TO
(Amend F.O.F. #1)**

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION**

The board discussed briefly the other change which was suggested to the board. The change was on a condition, not a finding of fact.

The board discussed alternate wording on finding #3 to reflect consistency in the document.

**SECONDARY
MOTION TO
(Amend F.O.F. #3)**

Hickey Au-Claire made a motion seconded by Keenan to amend finding of fact #3 to read:

The proposed major land use application is in compliance with the Sanitation requirements detailed in the Performance Standards because the well and septic that will serve the lodge have been reviewed and approved by Flathead City-County Health Department for use ~~up to~~ of no more than 24 people, solid waste will be handled by contract haul and stored in bear proof containers, and no livestock will be held on the property.

**ROLL CALL TO
(Amend F.O.F. #3)**

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FCMU 10-01)**

On a roll call vote, the motion passed unanimously

**MOTION TO
RECOMMEND
APPROVAL**

Hickey Au-Claire made a motion seconded by Cross to adopt Staff Report FCMU 10-01 and recommend approval to the Board of County Commissioners.

(FCMU 10-01)

**BOARD
DISCUSSION**

Lapp asked staff if any action the board were to take would preempt any discussion Glen Gray had with the applicants.

Staff, Lapp and Heim discussed at length which permit restricted the applicants to 24 people, if any action taken would eliminate the concerns of Glen Gray from Environmental Health concerning the septic permit and wastewater flow related to what type of structure the building was. They also discussed the challenges of obtaining proper permits from all the departments.

Grieve explained in detail to the board why there was a condition for the application which stated the applicant needed to have the appropriate permit from Environmental Health for septic in order to operate.

Lapp, staff and Gordon discussed if the board could condition how many beds were in the rooms, the number of rooms in the application, and if the applicant did what they said they would do.

**MOTION TO
(Amend
Condition #1)**

Heim motioned and DeKort seconded to amend Condition #1 to read:

The occupancy of the lodge shall be no more than 24 people, with ~~11~~ 12 guest rooms and 1 caretaker room.

**ROLL CALL TO
(Amend
Condition #1)**

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION**

Cross asked additional conditions which needed to be amended in staff's opinion.

Mouch read a proposed amendment to condition #3.

**MOTION TO
(Amend
Condition #3)**

Hickey Au-Claire motioned and Heim seconded to amend Condition #3 to read:

Any sign erected or altered advertising the lodge must comply with all standards of the Outdoor Advertising section found in Chapter 4 of CALURS. *The sign currently located at the intersection of Highline Blvd. and the private access drive shall be*

required to be moved onto the subject property or replaced with a directional sign not to exceed 8 sq. ft. in size.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
(Amend
Condition #3)**

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION**

Lapp commented he agreed the definitions were confusing but people had a responsibility to look into projects to find out what exactly was involved and the permits which were needed.

Cross agreed although on the face of it, the application was correct, the permits were there.

Lapp and Cross briefly discussed how the applicant had done most everything and met most of the permits, but the applicants had not gone about things the right way.

DeKort asked if there was a definition of a lodge since it was referred to in the report.

Mouch said the building was a lodge. The application was for an expansion of a commercial use greater than 25 percent of the use area when the use area was greater than an acre. That was the application before the board and the expansion was the lodge.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FCMU 10-01)**

On a roll call vote the motion passed unanimously.

**COMMITTEE
REPORTS**

Hickey Au-Claire said Committee A had met and discussed comments they had received on the Growth Policy and which way they wanted to go as a committee and as a board. They came up with a timeline and wanted to clarify it wasn't a rewrite; it was more of an update. A big concern of the committee was that they wanted to be efficient with their time, the board's time, staff's time and the commissioners' time. They felt with their work load they could consolidate their time if they had meetings with a full board not just a committee. They had a year scheduled for planning. She suggested they do their meetings at

the regularly scheduled meeting times on an every other Wednesday basis if they had items to review. The committee was coming to the board to see if this plan was something they were interested in. She summarized the plan for the board as to what they wanted to tackle during each quarter of the year. She said Grieve was meeting with the commissioners tomorrow morning and would check to see if they wanted the board to continue on the project if the board agreed to the plan for review on the growth policy.

The board and staff discussed the plan for review of the growth policy and the timeline. They agreed to start the meetings on January 12, 2011.

Cross asked if Grieve needed the board to make a motion to ask the commissioners if they wanted the board to work on the growth policy.

Grieve said yes and went on to explain why.

**MAIN MOTION
TO FORWARD
THE GROWTH
POLICY
UPDATE WORK
PLAN 2011-
2012 TO THE
COMMISSIONERS
FOR
CONSIDERATION**

DeKort motioned and Larsen seconded to forward the Growth Policy Update Work Plan 2011-2012 to the commissioners for consideration.

**BOARD
DISCUSSION**

None.

**VOTE TO
FORWARD THE
GROWTH
POLICY
UPDATE WORK
PLAN 2011-
2012 TO THE
COMMISSIONERS
FOR
CONSIDERATION**

The motion passed unanimously.

**CONTINUATION
OF COMMITTEE
REPORTS** Cross updated the board on the information discussed at the Committee B meeting which included the working list which would improve zoning.

OLD BUSINESS Cross updated the board on the status of joint meeting information with Whitefish, Kalispell and the Planning Board concerning the Highway 93 corridor.

The board discussed the best way to proceed.

NEW BUSINESS The board and Grieve discussed upcoming workshops.

Donna Valade, board secretary, asked the board to replace old information in their binders with current information which was before them at their seats.

Grieve asked the board if they had any questions as to why Kathy Price came before the board to inform them of the softball complex in Columbia Falls.

The board and Grieve discussed the need for the complex in Columbia Falls, the difficulties they faced and if there were different intensities of use for parks.

ADJOURNMENT The meeting was adjourned at approximately 9:55 pm. The next meeting will be held at 6:00 p.m. on February 9, 2011.

Gordon Cross, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 2 /9/11*